



CR-7187-2024 (O & M)

-1-

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

129

CR-7187-2024 (O & M)
Date of decision: 05.02.2025

**STATE GOVERNMENT OF PUNJAB AND OTHERS
...PETITIONERS**

VS.

**PREM SINGH, EXCISE AND TAXATION OFFICER (RETD)
...RESPONDENT**

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Kanav Singla, AAG, Punjab.

SUVIR SEHGAL J. (ORAL)

1. Instant revision petition has been filed impugning order dated 03.10.2024, passed by the learned Additional District Judge, Patiala, whereby the Court has declined to extend the stay of the operation of the judgment and decree dated 12.04.2023 passed by the Trial Court.
2. State counsel submits that the respondent/plaintiff filed a suit for declaration to the effect that punishment order, whereby provisional pension has been stopped and suspension period has not been regularized, are illegal, null and void. He states that after contest, suit has been decreed by judgment and decree dated 12.04.2023, which has been challenged in first appeal. State counsel states that as there was a delay, an application was filed for condonation of delay of 90 days in



CR-7187-2024 (O & M)

-2-

filing the appeal and on 06.09.2024, the first appellate court stayed the operation of the impugned decree, but by impugned order, extension of stay has been specifically declined.

3. Notice of motion.
4. Mr. Mayank Mathur, accepts notice on behalf of the caveator.
5. Counsel for the parties have been heard.
6. Petitioner has filed an appeal under Section 96 of the Code of Civil Procedure, which is pending. First appeal is a valuable right of the parties and unless restricted by law, the whole case therein is open for rehearing both on the questions of law and fact. It is the duty of the first appellate court to appreciate the entire evidence and it may come to conclusion different from that of the Trial Court.
7. When the first appeal was taken up on 06.09.2024, operation of the impugned decree was stayed till 25.09.2024. However, on the adjourned date, first appellate court passed the following order:-

“State Vs. Prem Singh CA/426/2023

CNR No.PBPT010110872023

Present : Reader of this Court

File taken up today as I will be availing joining time w.e.f. 24.09.2024 to 30.09.2024. Case received by way of transfer. It be checked and registered. Now to come upon 03.10.2024 for the purpose already fixed. Parties/counsels be informed accordingly.

Date of order : 23.09.2024

Kavita, STG-III

Kamaldeep Singh Dhaliwal

Additional District Judge, Patiala,

UID No.PB0270”

8. It is evident from a perusal of the above order that interim stay could not be extended due to the non-availability of the Presiding Officer, for which petitioner cannot be made to suffer.

9. Accordingly, without examining the merits of the first appeal, it is directed that the impugned decree dated 12.04.2023 passed by the Trial Court shall remain stayed. Learned Additional District Judge, Patiala, shall make an endeavour and decide the application for condonation of delay and/or the first appeal filed by the State, as expeditiously as possible, preferably within a period of three months from the date of receiving of a copy of this order.

10. Revision petition as well as pending application are disposed off.

05.02.2025
sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No